



## Appeal Decision

Inquiry opened on 17 July 2018

Site visit made on 18 July 2018

**by Nick Palmer BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 24 October 2018**

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### **Appeal Ref: APP/P2935/W/17/3190575 Willowburn Trading Estate, Alnwick NE66 2PF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Northern Commercial and Harris and Sheldon Group against the decision of Northumberland County Council.
  - The application Ref: 16/03642/OUT, dated 28 September 2016, was refused by notice dated 5 July 2017.
  - The proposal is described as development of approximately 125 N<sup>o</sup> units with associated access.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The application is for outline permission with all matters reserved. An illustrative masterplan was submitted with the application and I shall consider that plan on the basis that it illustrates a possible layout.
3. Following the Council's decision on the application the Alnwick and Denwick Neighbourhood Plan was made on 27 July 2017. This forms part of the development plan.
4. The appeal site includes land in the ownership of the Council. Although the Council has indicated that it does not wish to pursue the part of the proposal that relates to that land, the appeal proposal remains unchanged from that originally submitted. For the avoidance of any doubt I shall consider the proposal as originally submitted.
5. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018. The Inquiry was adjourned to allow for further submissions and closing statements by the parties and was closed in writing on 6 September 2018.

### **Policy**

6. There are two key policy areas in the determination of this appeal, which are the development plan policies relating to employment and housing. I shall first of all establish the weight to be attached to the relevant policies.
7. The development plan for the area consists of the saved policies of the Alnwick Local Plan (LP) (1997), the Alnwick Core Strategy (CS) (2007) and the Alnwick

and Denwick Neighbourhood Plan (NP) (2017). Since the CS was adopted Northumberland County Council has become a unitary authority and other development plan documents which were intended to be produced in conjunction with the CS have not been progressed. At the time of determination of the application, the draft Northumberland Local Plan Core Strategy (NLPCS) had been submitted to the Secretary of State for examination but that plan was subsequently withdrawn.

### *Housing Policy and Supply*

8. It is agreed between the parties that there are no relevant saved policies relative to housing supply in the LP. It is also agreed that the housing policies in the CS are out of date as the housing requirement of that plan was based on the revoked Regional Spatial Strategy. Little weight can be given to those housing policies.
9. Furthermore, because policies which are most important for determining the application are out-of-date paragraph 11 (d) of the Framework applies. This provides that permission should be granted unless either of the circumstances in sub-sections i. and ii. obtain.
10. Policy H1 of the NP provides for around 1,100 new dwellings to be brought forward over the plan period between 2011 and 2031. This was based on evidence for the NLPCS. While that plan has been withdrawn the evidence base is not necessarily out-of-date. The level of housing provision in Policy H1 is consistent with the role of Alnwick as a town providing a range of shopping, services and employment opportunities.
11. On the basis of the standard method set out in the Planning Practice Guidance in accordance with the Framework<sup>1</sup> local housing need is a minimum of 717 dwellings per annum. However, in the latest draft Northumberland Local Plan an objectively assessed need of 885 dwellings per annum has been identified. This reflects evidence published in June 2018 and an ambitious jobs-led scenario. In any event, on the basis of an annual requirement of 885 dwellings there is no dispute that the Council can demonstrate a 9.8 years supply.

### *Employment Policy*

12. Policy E3 of the NP allows for the re-use or redevelopment of main industrial sites provided that proposals contribute to the creation and retention of employment and/or re-investment in the built fabric and infrastructure of these areas. The policy specifically excludes housing and retail development on these sites.
13. Policy S9 of the CS allocates land for employment development and safeguards existing employment sites whilst allowing for exceptions. No conflict is alleged with its provisions. Policy E3 reinforces Policy S9 by expressing the strategic requirement of that policy at a local level and is the employment policy against which the proposal should be considered.
14. The Framework requires that policies that allocate land for a specific use are reviewed where there is no reasonable prospect of an application coming forward for the allocated use. In the interim, applications for alternative uses that would contribute to meeting unmet need should be supported. Policy E3 is

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<sup>1</sup> Paragraph 60

not inconsistent with national policy in these respects. Indeed the policy provides for flexibility in terms of accepting uses that are outside the B Use Classes.<sup>2</sup>

15. Although the appellants made representations to the NP examination that the site had no reasonable prospect of continued employment use, the examiner found there to be no substantive evidence to conclusively demonstrate this. He considered Policy E3 to be sound against the previous Framework requirement of avoiding long term protection of employment sites where there is no reasonable prospect of a site being used for that purpose.
16. Retention of the site in employment use is also consistent with the Employment Land Review Update (2013) which concluded that Willowburn should be retained as an employment land allocation and with a subsequent study in 2015<sup>3</sup>. The NLPCS was withdrawn after the NP examination but the proposed de-allocation of the site in that draft document is of limited weight.
17. For the reasons given I find that Policy E3 of the NP is not out-of-date and is consistent with the Framework.

### **Main Issue**

18. In light of the foregoing, the main issue in this case is whether or not the adverse impacts of allowing the proposed housing development, including in respect of the effect on the supply of employment land, would significantly and demonstrably outweigh the benefits of the scheme.

### **Reasons**

#### *Effect on Supply of Employment Land*

19. The Willowburn Trading Estate lies within the built up area of Alnwick to the south of the town and close to the A1. Nearby there are other employment areas and retail developments. There are new employment parks on the other side of the A1. The appeal site covers a substantial part of the estate and is in three ownerships, namely Northern Commercial Properties, Harris and Sheldon and Northumberland County Council. It consists of a vacant former County Council depot, an industrial building (Hardy and Greys) which is occupied by a fishing tackle manufacturer and a range of largely vacant buildings which are on the rear part of the estate and owned by Northern Commercial Properties. On the remaining parts of the estate there are buildings which are occupied by agricultural machinery repair businesses, a vehicle garage, a church hall, a building which is sub-divided into small units, a building supplies business and a government office building. The frontage of the Hardy and Greys building faces South Road and is set back behind a landscaped area.
20. The proposal would not accord with Policy E3 of the NP. The supporting text to that policy recognises the importance of South Road as a key artery between the town centre and the Willowburn area and major employment sites east of the A1. The NP also recognises that investment is needed in existing employment sites to maintain their long term future. In these respects the

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<sup>2</sup> The Town and Country Planning (Use Classes) Order 1987 Part B (Business, general industrial and storage or distribution )

<sup>3</sup> Employment Land and Premises Demand Study (2015)

- retention of the Willowburn Trading Estate in employment use is a significant objective of the NP.
21. There is a comfortable supply of employment land when considered in relation to Alnwick, the north delivery area and the County as a whole, stated to be around 40 years' worth. There has been no significant change in this respect since the NP was made. The NP provides for a greater amount of land than is indicated to be necessary on the basis of past take-up rates of B class development, but the allocations also provide for *sui generis* development. Notwithstanding the overall level of supply, the Willowburn Trading Estate as a whole is important in terms of its location, close to the centre of Alnwick. The proposal would occupy a significant proportion of the Trading Estate.
  22. The site is easily accessible from the A1 and has good public transport services to and from the town centre. It is close to other employment parks and retail and commercial developments and in these respects is in an attractive location for employers and potential investors. The current level of vacancy of Willowburn Trading Estate as a whole is 30%, of which the Northern Commercial Properties buildings account for 25%. This represents a high level of vacancy in comparison with occupancy rates in the area generally but the latter figure relates to a single ownership. The generally high levels of occupancy in Alnwick are indicative of a generally good level of demand for employment floorspace in the town.
  23. The vacant buildings include a former Council depot and a range of buildings within the ownership of Northern Commercial Properties in various states of repair. The Hardy and Greys building, which is occupied, is of two storeys and has had piecemeal additions over the years. The former Council depot has recently been marketed by the Council and an unconditional offer was made but this was rejected by the Council. No details of the offer or the intended use are available. I understand from submissions following the Inquiry sessions and copied to the parties that further offers have been made but no information regarding those offers has been provided. Nonetheless the level of expressed interest in relation to the short marketing period seems to indicate serious interest in the Council depot. This level of apparent interest differs from the results of the marketing that has been carried out on behalf of the appellants which revealed little interest.
  24. At the Inquiry the Council referred to a lack of detailed information with respect to the buildings available and whether refurbishment could be included within lease terms. Although this lack of detailed information would not necessarily have deterred anyone with serious interest, it may not have been fully effective in promoting the buildings to potential occupiers.
  25. The current occupiers of the Hardy and Greys building can stay until their lease expires in 2021. That company has indicated that it wishes to move to alternative premises on a business park east of the A1. As the company is in occupation and may be for another 3 years this raises doubt as to whether the building is realistically available at the present time. The appellants point out that the arrangement of floorspace in the building limits its attractiveness to other occupiers. This may be the case but I am not convinced that the market has been fully tested in this respect.
  26. The vacant Northern Commercial Properties' buildings which occupy the rear part of the site range in size. They appear to date from the 1960s/70s and are

- partially in disrepair. The company previously in occupation (Alnmaritec) vacated the buildings in 2011 and it appears that since that time there has been no investment in them. Investment in repair and refurbishment would be necessary to secure re-use depending on the condition of individual buildings and any occupier's requirements.
27. The appellants have provided an assessment to demonstrate that refurbishment of the Northern Commercial Properties' buildings is not viable. However this is based on achieving a relatively high specification refurbishment which would be costly given the historic underinvestment in the building. In this location there are small businesses in sub-divided accommodation elsewhere on the estate and there is clear demand for this type of accommodation from businesses that cannot afford newly-built accommodation. The lack of investment in the buildings may have deterred potential occupiers. It remains unclear in the marketing whether the rent sought reflects the state of dilapidation or whether refurbishment work would be carried out by the appellants prior to new tenants occupying the accommodation. It seems to me this would be a significant factor for future occupiers and so impact on interest levels.
28. As an alternative to re-use the site could potentially be redeveloped for employment purposes. The appellants' development appraisal demonstrates non-viability of a speculative industrial development of 5,000 sq m on the Northern Commercial Properties' part of the site. Such development would depend on the availability of gap funding. Policy E3 allows for flexibility to accommodate other uses than those in the B classes and as this could potentially include a wide range of uses it has not been demonstrated that re-development would necessarily be unviable. Moreover the appellants' appraisal relates to only part of the site.
29. Assuming that the fishing tackle company would relocate within the town, the employment provided by that company would not be lost. There are 3 occupiers of the Northern Commercial Properties' buildings which occupy a very small proportion of the floorspace of those buildings. They would be displaced but I understand that they do not provide any significant level of employment on the site. Whether or not the fishing tackle company could relocate nearby and avoid job losses, and despite the limited use of the Northern Commercial Properties' buildings, the proposal would lead to loss of buildings in active employment generating uses. The loss of the site would prevent investment in employment generating uses so detracting from this trading estate which has been allocated for employment use because of its suitability and attractiveness for this purpose.
30. The proposal would re-develop some 4 ha of the Willowburn Trading Estate but significant areas of the estate would remain in employment uses. These include two businesses which carry out repairs to agricultural machinery. This is a noisy and intrusive activity which would necessitate the incorporation of mitigation measures into the proposed dwellings to avoid adverse impact on their occupants. Such mitigation would need to provide adequate noise reduction to allow sleep at night given that the businesses can operate for 24 hours at busy times of year.
31. It is unlikely however that noise could be fully mitigated, for example from outdoor areas including gardens. It is also likely that there would be general

disturbance from industrial/agricultural vehicles moving along the roads. I have concern that there would remain clear potential for complaints from residents to the Council about noise and disturbance. This could lead to restrictions being imposed on the operations of adjacent businesses which in turn may affect business viability on the remainder of the trading estate.

32. For the reasons set out above, given that the evidence before me indicates that there is a generally high level of demand for employment floorspace in the area and given the key location of the site in relation to the town I find that the proposal would have a significant adverse effect on the supply of employment land in Alnwick.
33. National policy is supportive of applications for alternative uses where these would contribute to meeting unmet need where there is no reasonable prospect of an application coming forward for a use allocated in a plan. I have found that it has not been demonstrated that there is no reasonable prospect of an application coming forward for the allocated use of the site. Because there is a more than adequate housing land supply there is no evidence of unmet need in this case.
34. The draft Local Plan was published for consultation purposes in July 2018. Policy ECN 8 of the draft Local Plan identifies the site as being within an area for flexible employment uses, where employment-generating uses wider than B-Class uses will be permitted. Policy ECN 10 allows for non-employment generating uses within those areas, including housing, provided that four criteria are met. Those policies can be given only very limited weight however because they are at a very early stage in the adoption process.

#### *The Benefits of the Proposal*

35. A signed Section 106 Agreement has been provided which would secure the provision of affordable housing at 15% of the total number of units. This provision would accord with the relevant policy requirement in Policy S6 of the CS. Although I note the Council's views regarding a lack of need for additional affordable housing I nevertheless accord this benefit significant weight as it would be likely to benefit people living in the town.
36. The proposal would boost the supply of market housing and the site is easily accessible to services and facilities by sustainable means. However in the context of the more than adequate housing land supply, these benefits only attract limited weight.
37. I have considered the benefit that would be provided by the creation of construction jobs. This would have knock-on effects in terms of supporting the local economy. The occupiers of the proposed dwellings would also benefit the local economy through supporting local businesses. These benefits would be significant although construction employment would be temporary.
38. The use of brownfield land is also encouraged in national policy, the Framework<sup>4</sup> stating that substantial weight should be given to the value of its use. However as employment use is preferable and important and the proposal would be contrary to a key land-use policy of the development plan this would negate any benefit in this regard.

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<sup>4</sup> Paragraph 118



### *Overall Balance*

39. The proposal would not accord with Policy E3 of the NP. This is a key policy of that plan and is a policy which is most important for determining the application. Policy H1 of the NP does not set an overall cap on development in Alnwick but neither does it positively favour the proposal. A number of development plan policies also support the proposal in general terms but the restriction in Policy E3 concerning housing development is a specific requirement rather than a matter of judgement. For these reasons the proposal would not accord with the development plan considered as a whole.
40. There are however important material considerations in this case. In particular paragraph 11 (d) of the Framework is engaged and it is necessary for me to consider whether or not the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
41. For the reasons given above I attach significant weights to the provision of affordable housing and to the economic benefits of the proposal both in terms of construction jobs and benefits to the local economy. I give limited weight to the provision of the market housing and its good accessibility by sustainable means.
42. The conflict with the development plan would however be significant in terms of the importance of Policy E3 to employment provision. This conflict carries substantial weight as breaching the policy would undermine confidence in the plan-led system. In terms of actual harm, a significant proportion of the trading estate would be lost and employment uses on the remaining areas of the estate may be prejudiced. This harm attracts very significant weight because the effect on local employment would be permanent.
43. I conclude that the substantial and very significant weights arising from the adverse impacts of allowing the proposed housing development, including the harm to the supply of employment land would significantly and demonstrably outweigh the benefits of the scheme.

### **Conclusion**

44. I conclude that the appeal should be dismissed.

*Nick Palmer*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Sasha White, of Queens Counsel and Anjoli Foster instructed by WYG on behalf of Northern Commercial Properties and Harris and Sheldon Group

They called

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|---------------------------|---|
| Martyn Lytollis BSc FRICS | Director, Lambert Smith Hampton                                     |
| Mark Johnson RICS MRTPI   | Managing Director, Johnson Brook/Johnson Mowat Planning Consultants |

### FOR THE LOCAL PLANNING AUTHORITY:

Simon Pickles, of Counsel instructed by Umi Filby, Solicitor of Northumberland County Council

He called

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|--------------------------------|---|
| Steven Robson BA MA            | Principal Planning Officer, Northumberland County Council |
| Keith Stewart BSc (Hons) MRICS | Director, Naylor's  |
| James Hall BA MCD MRTPI        | Planning Partner, Barton Willmore LLP                     |
| Anthony Lowe MSc               | Senior Planning Officer, Northumberland County Council    |

### RULE 6 PARTY:

Freddie Humphries, Barrister instructed by Douglas Claxton of Alnwick Town Council

He called

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| Peter Biggers BSc (Hons) MRTPI | Director, Argyle Planning Consultancy Ltd |
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### INTERESTED PARTIES:

|               |                        |
|---------------|------------------------|
| James McLean  | James N McLean Ltd     |
| Colin Potts   | Rickerby Ltd           |
| Mick Davison  | The Framing Department |
| Philip Angier | Chair, Local Living    |
| Ryan Kent     | Ultimate Finish        |



DOCUMENTS SUBMITTED AT THE INQUIRY:

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| ID1   | Northumberland Local Plan: draft Plan for Regulation 18 Consultation (July 2018) |
| ID2   | George F White Weekly Report 10 July 2018  |
| ID2a  | George F White Weekly Report 17 July 2018  |
| ID3   | E-mail correspondence between Martyn Lytollis and Anthony Lowe                   |
| ID4   | Map of Estates at Alnwick  |
| ID5   | Appeal decision AP/X1355/W/17/3180108  |
| ID6   | Opening Submissions for the Appellants   |
| ID7   | Opening Statement on behalf of Northumberland County Council                     |
| ID8   | Opening Statement on behalf of Alnwick Town Council                              |
| ID9   | Northumberland Employment Land Take-up Study 1999-2014 (extract August 2015)     |
| ID10  | E-mail correspondence from Natural England                                       |
| ID11  | E-mail correspondence from Julie Parkinson                                       |
| ID12  | Note of responses by Anthony Lowe to cross-examination questions                 |
| ID13  | List of suggested planning conditions  |
| ID13a | List of suggested planning conditions with appellants' comments                  |
| ID14  | Statement of compliance with CIL Regulations                                     |
| ID15  | Extract from Northumberland Gazette  |
| ID16  | Appeal decision APP/Q3115/W/17/3180400   |
| ID17  | Extract from Planning Practice Guidance  |
| ID18  | Statement by James N McLean  |
| ID19  | Letter from Barry Lloyd, Managing Director Lloyd Ltd                             |

DOCUMENTS SUBMITTED AFTER INQUIRY SESSIONS, BEFORE CLOSE OF INQUIRY:

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| ID20 | Position Statement following release of the National Planning Policy Framework 2018 by Northumberland County Council |
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| ID21 | Closing Submissions on behalf of Northumberland County Council   |
| ID22 | Statement on NPPF 2018 by Peter Biggers on behalf of Alnwick Town Council                              |
| ID23 | Closing Statement on behalf of Alnwick Town Council  |
| ID24 | Submissions of the Appellants on the implications of revised National Policy published on 24 July 2018 |
| ID25 | The Closing Submissions for the Appellants   |